



Entered on Docket  
January 12, 2011

Hon. Linda B. Riegle  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEVADA

In re:  
DAVID RAMIREZ-LOPEZ and  
MARGARITA RAMIREZ

Debtor(s).

BK-10-24215-LBR  
Chapter 13

Date: 12-9-10  
Time: 3:05 p.m.  
Rick A. Yarnall

**ORDER GRANTING MOTION TO VALUE DEBTORS' PRINCIPAL RESIDENCE AND  
AVOID WHOLLY UNSECURED LIEN(S) ENCUMBERING SAME, TO MODIFY THE  
RIGHTS OF LIENHOLDERS AND GRANTING OBJECTION TO LIENHOLDERS'  
PROOF(S) OF CLAIM, IF ANY**

THIS MATTER having come before the Court for a hearing on December 9, 2010, on Debtors' MOTION TO VALUE DEBTORS' PRINCIPAL RESIDENCE AND AVOID WHOLLY UNSECURED LIEN(S) ENCUMBERING SAME, TO MODIFY THE RIGHTS OF LIENHOLDERS AND OBJECTION TO LIENHOLDERS' PROOF(S) OF CLAIM, IF ANY, and based upon the papers and pleadings on file herein, and good cause appearing; the Court finds as follows:

1. The Debtors' principal residence located at 409 Lucy Street, Henderson, NV 89015 APN: 178-24-515-024 (the "Subject Property") is valued at \$128,500.00 as of the date of Debtor's Chapter 13 Petition.
2. The Subject Property is collateral for a senior secured claim of U.S. Bank National Association ("Senior Lienholder").
  - ✓ Senior Lienholder has filed a Proof of Claim number 4 related to such claim, and such Proof of Claim claims a debt of \$267,023.05. Senior

1 Lienholder's Proof of Claim indicates that Senior Lienholder has assigned  
2 account # 6192 to this claim.

- 3 3. The Subject Property is also collateral for a junior secured claim of Chase  
4 Manhattan Mortgage ("Junior Lienholder").

5 ✓ Junior Lienholder has **not** filed a Proof of Claim related to its claim, but  
6 has assigned account # 7014 to this claim. The Debtor's schedules list the  
7 amount of Junior Lienholder's claims as \$64,291.23.

- 8 4. That on the filing date of the instant Chapter 13 petition, the claims represented  
9 by the junior lien was wholly unsecured and may therefore be avoided pursuant to  
10 11 U.S.C. Section 506(a) and §1322(b)(2) upon completion of Debtors' Chapter  
11 13 plan; and

- 12 5. Said claim is properly reclassified as non-priority general unsecured claim to be  
13 paid pro rata with other non-priority general unsecured creditors through the  
14 Debtors' Chapter 13 plan; and

- 15 6. That it is consistent with the above findings that any claim(s) as identified in  
16 Proofs of Claim filed by Chase Manhattan Mortgage be modified to non-priority  
17 general unsecured status.

18 IT IS HEREBY ORDERED THAT:

- 19 1. The claims represented by the junior lien of Chase Manhattan Mortgage be  
20 and is herewith avoided and "stripped off" from Debtors' principal residence upon completion of  
21 Debtors' Chapter 13 plan and shall henceforth be treated as a "non-priority general unsecured  
22 claim" pursuant to 11 U.S.C. §506(a)

- 23 2. Should Debtor receive a discharge in this case, Junior Lienholder shall as soon as  
24 practicable thereafter take all necessary and appropriate steps to remove its lien of record, and to  
25 ensure that Debtor's title to the Subject Property is clear of any cloud on title related to Junior  
26 Lienholders' claim. This court hereby reserves jurisdiction with respect to any dispute over the  
27 actions necessary to comply with this paragraph; and  
28

1           3.       Should this case be converted to one under another chapter, 11 U.S.C. § 348(f)  
2 shall govern the continued validity of this order; and

3           4.       Should this case be dismissed, 11 U.S.C. § 349(b)(1)-(3) shall govern the  
4 continuing validity of this order; and

5           5.       Chase Manhattan Mortgage shall retain its claim(s) for the full amount under  
6 the loan referenced above in the event of either dismissal of the Debtors' Chapter 13 case or the  
7 conversion of the Debtors' Chapter 13 case to any other Chapter under the United States  
8 Bankruptcy Code.

9  
10 **ALTERNATIVE METHOD RE: RULE 9021**

11 In accordance with LR 9021, counsel submitting this document certifies that the order accurately  
12 reflects the court's ruling and that (check one):

13           \_\_\_ The court has waived the requirement set forth in LR 9021 (b)(1).

14           \_\_\_ No party appeared at the hearing or filed an objection to the motion.

15  
16           \_\_\_ I have delivered a copy of this proposed order to all counsel who appeared at  
17 the hearing, and any unrepresented parties who appeared at the hearing, and each  
18 has approved or disapproved the order, or failed to respond, as indicated below (list  
19 each party and whether the party has approved, disapproved, or failed to respond to  
20 the document):

21           \_\_X\_\_ I certify that this is a case under Chapter 7 or 13, that I have served a copy  
22 of this order with the motion pursuant to LR 9014 (g), and that no party has  
23 objected to the form or content of the order.

24 Submitted By:  
25 CROSBY & ASSOCIATES

26   
27 David M. Crosby, Esq.  
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